

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 02-0170P**

**Income Tax  
Calendar Years 1999**

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**ISSUE(S)**

**I. Tax Administration – Late File Penalty**

**Authority:** IC 6-8.1-10-2.1(g)

Taxpayer protests the assessment of penalty.

**STATEMENT OF FACTS**

The taxpayer is an accounting service provider. The taxpayer was assessed a late file penalty in the amount of two hundred fifty dollars (\$250.00) on the late filing of their 1999 IT-20S calendar year end return. In the letter of protest, the taxpayer states that the 1999 tax year return was under an automatic six-month extension. The taxpayer further states that the Federal 1120S Return was filed on or about September 17, 2001. It is assumed by the Department that the taxpayer had intended to write September 17, 2000 (not 2001). Finally the taxpayer states that the Indiana State IT-20S return is always filed by depositing the return in the United States Mail at the same time as the federal return.

**I. Tax Administration – Late File Penalty**

**DISCUSSION**

In review of the taxpayer's 1999 IT-20S return with an attached copy of the Federal 1120S return, the Department does not find a copy of the automatic extension of time as referenced in the taxpayer's letter. This however is moot. Even with an automatic extension of time, the due date for the Indiana form IT-20S would have been 30-days beyond the Federal extended due date.

If there was in fact a six-month Federal extension for the 1999 calendar year end return, the due date for the Indiana return would have been Monday, October 16, 2000. This date would be six-months plus 30-days past the original return due date of March 15, 2000.

The Indiana return was signed by the taxpayer and dated November 21, 2000. The postmark for the return was also November 21, 2000. If there was in fact an extension, the return was still filed thirty-six days past the extended due date.

The Department finds that the taxpayer filed their 1999 form IT-20 late by at least thirty-six days. The Indiana Code provides for a penalty of ten dollars (\$10.00) for each day that the return is past due, up to a maximum of two hundred fifty dollars (\$250.00). As the taxpayer was more than twenty-five days late, the maximum penalty amount of two hundred fifty dollars (\$250.00) was imposed. The taxpayer has failed to demonstrate reasonable cause for the failure to timely file the return, and therefore, the Department finds the assessment of the penalty is proper.

### **FINDING**

The taxpayer's protest is denied.